

§0.737-4

Ethics and to the Criminal Division, Department of Justice.

(c) Whenever the Solicitor has determined after appropriate review that there is reasonable cause to believe that a former employee described in §0.737-1 has violated 18 U.S.C. 207(a), (b) or (c) or the regulations of the Office of Personnel Management at 5 CFR part 737, the Solicitor may initiate an administrative disciplinary proceeding by providing the former employee with a notice of alleged violation.

(d) The notice of alleged violation shall include:

(1) A statement of allegations (and the basis thereof) sufficiently detailed to enable the former employee to prepare an adequate defense;

(2) Notification of the right to a hearing; and

(3) An explanation of the method by which a hearing may be requested.

§0.737-4 Request for a hearing.

(a) Any former employee who is the subject of a notice of alleged violation issued by the Solicitor under §0.737-3 may within 15 days from the date of such notice request a hearing by writing to: The Office of the Under Secretary, U.S. Department of Labor, 200 Constitution Avenue, Washington, DC 20210.

(b) If the former employee fails to request a hearing in accordance with paragraph (a), the Under Secretary may then render a final administrative decision in the matter and, if appropriate, impose the sanctions specified in §0.737-10.

§0.737-5 Appointment of Examiner.

Whenever a notice of alleged violation has been issued and a hearing requested, the Under Secretary shall provide for the selection of a Department of Labor Administrative Law Judge, appointed in accordance with 5 U.S.C. 3105, to act as the Examiner with respect to the matter.

§0.737-6 Time, date and place of hearing.

(a) Any hearing shall be conducted at a reasonable time, date and place as determined by the Examiner.

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(b) In setting a hearing date the Examiner shall give due regard to the former employee's need for:

(1) Adequate time to prepare a defense properly, and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation.

§0.737-7 Hearing rights.

(a) The following rights shall be afforded at a hearing conducted before the Examiner:

(1) To represent oneself or to be represented by counsel,

(2) To introduce and examine witnesses and to submit physical evidence,

(3) To confront and cross-examine adverse witnesses,

(4) To present oral argument; and

(5) To obtain a transcript or recording of proceedings, on request.

(b) In a hearing under this subpart, the Federal Rules of Civil Procedure and Evidence do not apply. However, the Examiner may make orders and determinations regarding discovery, admissibility of evidence, conduct of examination and cross-examination, and similar matters as the Examiner deems necessary or appropriate to ensure orderliness of the proceedings and fundamental fairness to the parties.

(c) In any proceeding under this subpart, the Department must establish any violation by a preponderance of the evidence.

§0.737-8 Hearing decision and exceptions.

The Examiner shall make a determination exclusively on matters of record in the proceeding, and shall set forth in the hearing decision all findings of fact and conclusions of law relevant to the matters at issue. The hearing decision of the Examiner shall be considered final agency administrative action unless either party files exceptions in writing to the Under Secretary, U.S. Department of Labor, 200 Constitution Avenue, Washington, DC 20210 within 30 days from the date of such hearing decision.

§0.737-9 Decision on exceptions.

(a) Upon receipt of exceptions, the Under Secretary may afford both parties an opportunity to submit briefs or